

## Making Great Communities Happen

## Connecticut Chapter of the American Planning Association

Government Relation Committee

Chair: Christopher S. Wood, AICP Phone: 203 558-0654 govrel@ccapa.org www.ccapa.org

## POSITION STATEMENT PLANNING AND DEVELOPMENT COMMITTEE - FEBRUARY 22, 2012

## BILL: RSB 102 An Act Prohibiting Local Building Standards

The Connecticut Chapter of the American Planning Association (CCAPA) appreciates the opportunity to comment on the above referenced bill and respectfully submits the following for the Committee's consideration.

OVERVIEW: CCAPA believes the bill as currently written has the potential to create significant conflicts and suggests that, at the very least, the intent be clarified, particularly with respect to CGS 8-2. CCAPA suggests that it might be prudent to defer approval of the bill until affected interests have had sufficient opportunity to discuss and resolve potential conflicts. In general, use of more specific language would be necessary for effective legislation.

ANALYSIS: This bill would explicitly prohibit towns from adopting building codes or construction standards unless such codes or standards are already contained in the State Building Code. The language in the proposed bill does not clearly define the restrictions that are apparently intended.

For instance, building codes have recently been revised to codify the historical relationship between zoning and building standards reflected in CGS 8-3 (f), regarding the issuance of building permits and certificates of occupancy for any "building, use or structure..." It is unclear if the intent of the bill is to invert this relationship and render zoning completely separate and subordinate to the building code in all respects.

Current zoning statutes empower municipal zoning boards to adopt special permit regulations, "Village District" regulations, and other innovative approaches to addressing community design issues. If regulations adopted under these provisions, or actions taken pursuant to those regulations, contained conditions affecting the design, materials, or similar specific aspects of a "use, building or structure", as authorized by statute, it is unclear if such traditional and widely accepted practices would now be prohibited "construction standards" under this new law.

Finally, although provisions are included to exempt "housing codes" and demolition from the law, use of the inclusive "any provision of a municipal ordinance or regulation" suggests the law will affect interests beyond the scope of CCAPA's direct and immediate concerns. Lacking clarification, the bill's sweeping and general nature will invite argument, create conflict, and lead to even more litigation.

RECOMMENDATIONS: CCAPA appreciates the necessity for close collaboration between professionals involved in designing, permitting and constructing the broad range of improvements subject to zoning regulation under CGS 8-2. We also appreciate that, at times, conflicts can arise from apparent overlapping jurisdictions, requiring clarity with respect to roles and prerogatives. Professional planners deal with and resolve these issues every day.

Additional consideration of the intent and the concepts behind this bill is necessary to avoid the creation of additional uncertainty for land use and building code administrators as well as developers, such as occurred with the adoption of PA 11-79, An Act Concerning Bonds and Other Surety for Approved Site Plans and Subdivisions.

CCAPA POSITION: While CCAPA generally supports the apparent intent of the bill, absent clarifying language, CCAPA feels that administration of the law will likely result in significant conflicts between practitioners responsible to interpret and apply zoning and building codes. Therefore, CCAPA does not support the proposal as currently crafted. However, CCAPA would support an effort to conduct the necessary analysis and evaluation of current statutes and existing State and local standards to identify appropriate coordination and streamlining of building and construction codes and standards, particularly as such integrate with zoning statutes and regulations.